

AMENDED IN SENATE JUNE 15, 2004

AMENDED IN ASSEMBLY APRIL 27, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 2580**

**Introduced by Assembly Member Goldberg**

February 20, 2004

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An act to amend Sections 297.5 and 299 of the Family Code, and to amend Section 14771 of the Government Code, relating to domestic partnerships.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2580, as amended, Goldberg. Domestic partnerships.

Existing law provides for the establishment and termination of domestic partnerships, as specified. On and after January 1, 2005, existing law extends the rights and duties of marriage to persons registered as domestic partners. Existing law requires the Director of General Services, through the forms management center, to provide notice to state agencies, among others, that in reviewing and revising all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership be included.

This bill would *provide that any reference to the date of a marriage also be deemed to refer to the date of registration of a domestic partnership with the state with regard to, among other things, community property or the dissolution of a partnership. The bill would require the enforcement of a premarital agreement as between domestic partners registered with the state before January 1, 2005, if that*

*agreement meets specified conditions. The bill would further revise and recast certain references to domestic partners or partnerships in the above provisions as “registered” or “state-registered” domestic partners or partnerships, as specified, and would make a conforming change with respect to state forms.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 297.5 of the Family Code is amended to  
2 read:

3 297.5. (a) Registered domestic partners shall have the same  
4 rights, protections, and benefits, and shall be subject to the same  
5 responsibilities, obligations, and duties under law, whether they  
6 derive from statutes, administrative regulations, court rules,  
7 government policies, common law, or any other provisions or  
8 sources of law, as are granted to and imposed upon spouses.

9 (b) Former registered domestic partners shall have the same  
10 rights, protections, and benefits, and shall be subject to the same  
11 responsibilities, obligations, and duties under law, whether they  
12 derive from statutes, administrative regulations, court rules,  
13 government policies, common law, or any other provisions or  
14 sources of law, as are granted to and imposed upon former spouses.

15 (c) A surviving registered domestic partner, following the  
16 death of the other partner, shall have the same rights, protections,  
17 and benefits, and shall be subject to the same responsibilities,  
18 obligations, and duties under law, whether they derive from  
19 statutes, administrative regulations, court rules, government  
20 policies, common law, or any other provisions or sources of law,  
21 as are granted to and imposed upon a widow or a widower.

22 (d) The rights and obligations of registered domestic partners  
23 with respect to a child of either of them shall be the same as those  
24 of spouses. The rights and obligations of former or surviving  
25 registered domestic partners with respect to a child of either of  
26 them shall be the same as those of former or surviving spouses.

27 (e) To the extent that provisions of California law adopt, refer  
28 to, or rely upon, provisions of federal law in a way that otherwise  
29 would cause registered domestic partners to be treated differently  
30 than spouses, registered domestic partners shall be treated by



1 California law as if federal law recognized a domestic partnership  
2 in the same manner as California law.

3 (f) Registered domestic partners shall have the same rights  
4 regarding nondiscrimination as those provided to spouses.

5 (g) Notwithstanding this section, in filing their state income tax  
6 returns, domestic partners shall use the same filing status as is used  
7 on their federal income tax returns, or that would have been used  
8 had they filed federal income tax returns. Earned income may not  
9 be treated as community property for state income tax purposes.

10 (h) No public agency in this state may discriminate against any  
11 person or couple on the ground that the person is a registered  
12 domestic partner rather than a spouse or that the couple are  
13 registered domestic partners rather than spouses, except that  
14 nothing in this section applies to modify eligibility for long-term  
15 care plans pursuant to Chapter 15 (commencing with Section  
16 21660) of Part 3 of Division 5 of Title 2 of the Government Code.

17 (i) This act does not preclude any state or local agency from  
18 exercising its regulatory authority to implement statutes providing  
19 rights to, or imposing responsibilities upon, ~~registered~~ domestic  
20 partners.

21 (j) This section does not amend or modify any provision of the  
22 California Constitution or any provision of any statute that was  
23 adopted by initiative.

24 (k) This section does not amend or modify federal laws or the  
25 benefits, protections, and responsibilities provided by those laws.

26 (l) Where necessary to implement the rights of registered  
27 domestic partners under this act, gender-specific terms referring  
28 to spouses shall be construed to include domestic partners.

29 (m) *(1) For purposes of the statutes, administrative*  
30 *regulations, court rules, government policies, common law, and*  
31 *any other provision or source of law governing the rights,*  
32 *protections, and benefits, and the responsibilities, obligations, and*  
33 *duties of registered domestic partners in this state, as effectuated*  
34 *by this section, with respect to community property, mutual*  
35 *responsibility for debts to third parties, the right in particular*  
36 *circumstances of either partner to seek financial support from the*  
37 *other following the dissolution of the partnership, and other rights*  
38 *and duties as between the partners concerning ownership of*  
39 *property, any reference to the date of a marriage shall be deemed*

1 *to refer to the date of registration of a domestic partnership with*  
2 *the state.*

3 (2) *Notwithstanding paragraph (1), for domestic partnerships*  
4 *registered with the state before January 1, 2005, an agreement*  
5 *between the domestic partners that the partners intend to be*  
6 *governed by the requirements set forth in Sections 1600 to 1620,*  
7 *inclusive, and which complies with those sections, except for the*  
8 *agreement's effective date, shall be enforceable as provided by*  
9 *Sections 1600 to 1620, inclusive, if that agreement was fully*  
10 *executed and in force as of June 30, 2005.*

11 SEC. 2. Section 299 of the Family Code, as added by Section  
12 8 of Chapter 421 of the Statutes of 2003, is amended to read:

13 299. (a) A *registered* domestic partnership may be  
14 terminated without filing a proceeding for dissolution of domestic  
15 partnership by the filing of a Notice of Termination of Domestic  
16 Partnership with the Secretary of State pursuant to this section,  
17 provided that all of the following conditions exist at the time of the  
18 filing:

19 (1) The Notice of Termination of Domestic Partnership is  
20 signed by both *registered* domestic partners.

21 (2) There are no children of the relationship of the parties born  
22 before or after registration of the domestic partnership or adopted  
23 by the parties after registration of the domestic partnership, and  
24 neither of the registered domestic partners, to their knowledge, is  
25 pregnant.

26 (3) The *registered* domestic partnership is not more than five  
27 years in duration.

28 (4) Neither party has any interest in real property wherever  
29 situated, with the exception of the lease of a residence occupied by  
30 either party which satisfies the following requirements:

31 (A) The lease does not include an option to purchase.

32 (B) The lease terminates within one year from the date of filing  
33 of the Notice of Termination of Domestic Partnership.

34 (5) There are no unpaid obligations in excess of the amount  
35 described in paragraph (6) of subdivision (a) of Section 2400, as  
36 adjusted by subdivision (b) of Section 2400, incurred by either or  
37 both of the parties after registration of the domestic partnership,  
38 excluding the amount of any unpaid obligation with respect to an  
39 automobile.

1 (6) The total fair market value of community property assets,  
2 excluding all encumbrances and automobiles, including any  
3 deferred compensation or retirement plan, is less than the amount  
4 described in paragraph (7) of subdivision (a) of Section 2400, as  
5 adjusted by subdivision (b) of Section 2400, and neither party has  
6 separate property assets, excluding all encumbrances and  
7 automobiles, in excess of that amount.

8 (7) The parties have executed an agreement setting forth the  
9 division of assets and the assumption of liabilities of the  
10 community property, and have executed any documents, title  
11 certificates, bills of sale, or other evidence of transfer necessary to  
12 effectuate the agreement.

13 (8) The parties waive any rights to support by the other  
14 domestic partner.

15 (9) The parties have read and understand a brochure prepared  
16 by the Secretary of State describing the requirements, nature, and  
17 effect of terminating a domestic partnership.

18 (10) Both parties desire that the domestic partnership be  
19 terminated.

20 (b) The *registered* domestic partnership shall be terminated  
21 effective six months after the date of filing of the Notice of  
22 Termination of Domestic Partnership with the Secretary of State  
23 pursuant to this section, provided that neither party has, before that  
24 date, filed with the Secretary of State a notice of revocation of the  
25 termination of domestic partnership, in the form and content as  
26 shall be prescribed by the Secretary of State, and sent to the other  
27 party a copy of the notice of revocation by first-class mail, postage  
28 prepaid, at the other party's last known address. The effect of  
29 termination of a domestic partnership pursuant to this section shall  
30 be the same as, and shall be treated for all purposes as, the entry  
31 of a judgment of dissolution of a domestic partnership.

32 (c) The termination of a domestic partnership pursuant to  
33 subdivision (b) does not prejudice nor bar the rights of either of the  
34 parties to institute an action in the superior court to set aside the  
35 termination for fraud, duress, mistake, or any other ground  
36 recognized at law or in equity. A court may set aside the  
37 termination of domestic partnership and declare the termination of  
38 the domestic partnership null and void upon proof that the parties  
39 did not meet the requirements of subdivision (a) at the time of the

1 filing of the Notice of Termination of Domestic Partnership with  
2 the Secretary of State.

3 (d) The superior courts shall have jurisdiction over all  
4 proceedings relating to the dissolution of domestic partnerships,  
5 nullity of domestic partnerships, and legal separation of partners  
6 in a domestic partnership. The dissolution of a domestic  
7 partnership, nullity of a domestic partnership, and legal separation  
8 of partners in a domestic partnership shall follow the same  
9 procedures, and the partners shall possess the same rights,  
10 protections, and benefits, and be subject to the same  
11 responsibilities, obligations, and duties, as apply to the dissolution  
12 of marriage, nullity of marriage, and legal separation of spouses  
13 in a marriage, respectively, except as provided in subdivision (a),  
14 and except that, in accordance with the consent acknowledged by  
15 domestic partners in the Declaration of Domestic Partnership  
16 form, proceedings for dissolution, nullity, or legal separation of a  
17 domestic partnership registered in this state may be filed in the  
18 superior courts of this state even if neither domestic partner is a  
19 resident of, or maintains a domicile in, the state at the time the  
20 proceedings are filed.

21 SEC. 3. Section 14771 of the Government Code is amended  
22 to read:

23 14771. (a) The director, through the forms management  
24 center, shall do all of the following:

25 (1) Establish a State Forms Management Program for all state  
26 agencies, and provide assistance in establishing internal forms  
27 management capabilities.

28 (2) Study, develop, coordinate and initiate forms of  
29 interagency and common administrative usage, and establish basic  
30 state design and specification criteria to effect the standardization  
31 of public-use forms.

32 (3) Provide assistance to state agencies for economical forms  
33 design and forms artwork composition and establish and supervise  
34 control procedures to prevent the undue creation and reproduction  
35 of public-use forms.

36 (4) Provide assistance, training, and instruction in forms  
37 management techniques to state agencies, forms management  
38 representatives, and departmental forms coordinators, and provide  
39 direct administrative and forms management assistance to new  
40 state organizations as they are created.

1 (5) Maintain a central cross index of public-use forms to  
2 facilitate the standardization of these forms, to eliminate  
3 redundant forms, and to provide a central source of information on  
4 the usage and availability of forms.

5 (6) Utilize appropriate procurement techniques to take  
6 advantage of competitive bidding, consolidated orders, and  
7 contract procurement of forms, and work directly with the Office  
8 of State Publishing toward more efficient, economical and timely  
9 procurement, receipt, storage, and distribution of state forms.

10 (7) Coordinate the forms management program with the  
11 existing state archives and records management program to ensure  
12 timely disposition of outdated forms and related records.

13 (8) Conduct periodic evaluations of the effectiveness of the  
14 overall forms management program and the forms management  
15 practices of the individual state agencies, and maintain records  
16 which indicate net dollar savings which have been realized  
17 through centralized forms management.

18 (9) Develop and promulgate rules and standards to implement  
19 the overall purposes of this section.

20 (10) Create and maintain by July 1, 1986, a complete and  
21 comprehensive inventory of public-use forms in current use by the  
22 state.

23 (11) Establish and maintain, by July 1, 1986, an index of all  
24 public-use forms in current use by the state.

25 (12) Assign, by January 1, 1987, a control number to all  
26 public-use forms in current use by the state.

27 (13) Establish a goal to reduce the existing burden of state  
28 collections of public information by 30 percent by July 1, 1987,  
29 and to reduce that burden by an additional 15 percent by July 1,  
30 1988.

31 (14) ~~Provide~~ *Notwithstanding any other provision of law,*  
32 *including, but not limited to, Section 14774, provide* notice to state  
33 agencies, forms management representatives, and departmental  
34 forms coordinators, that in the usual course of reviewing and  
35 revising all public-use forms that refer to or use the terms spouse,  
36 husband, wife, father, mother, marriage, or marital status, that  
37 appropriate references to state-registered domestic partner, parent,  
38 or state-registered domestic partnership are to be included.

39 (15) Delegate implementing authority to state agencies where  
40 the delegation will result in the most timely and economical



1 method of accomplishing the responsibilities set forth in this  
2 section.

3 The director, through the forms management center, may  
4 require any agency to revise any public-use form which the  
5 director determines is inefficient.

6 (b) Due to the need for tax forms to be available to the public  
7 on a timely basis, all tax forms, including returns, schedules,  
8 notices, and instructions prepared by the Franchise Tax Board for  
9 public use in connection with its administration of the Personal  
10 Income Tax Law, Senior Citizens Property Tax Assistance and  
11 Postponement Law, Bank and Corporation Tax Law, and the  
12 Political Reform Act of 1974 and the State Board of Equalization's  
13 administration of county assessment standards, state-assessed  
14 property, timber tax, sales and use tax, hazardous substances tax,  
15 alcoholic beverage tax, cigarette tax, motor vehicle fuel license  
16 tax, use fuel tax, energy resources surcharge, emergency telephone  
17 users surcharge, insurance tax, and universal telephone service tax  
18 shall be exempt from subdivision (a), and, instead, each board  
19 shall do all of the following:

20 (1) Establish a goal to standardize, consolidate, simplify,  
21 efficiently manage, and, where possible, reduce the number of tax  
22 forms.

23 (2) Create and maintain, by July 1, 1986, a complete and  
24 comprehensive inventory of tax forms in current use by the board.

25 (3) Establish and maintain, by July 1, 1986, an index of all tax  
26 forms in current use by the board.

27 (4) Report to the Legislature, by January 1, 1987, on its  
28 progress to improve the effectiveness and efficiency of all tax  
29 forms.

30 (c) The director, through the forms management center, shall  
31 develop and maintain, by December 31, 1995, an ongoing master  
32 inventory of all nontax reporting forms required of businesses by  
33 state agencies, including a schedule for notifying each state agency  
34 of the impending expiration of certain report review requirements  
35 pursuant to subdivision (b) of Section 14775.

